S.B. CIVIL MISC. APPEAL NO. 813/2001

Date : 22.03.2006

HON'BLE MR. BHAGWATI PRASAD, J.

Mr. B.N. Kalla for the appellant.
Mr. R.S. Saluja for the respondents.

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Heard.

This appeal is filed against the order of the learned District Judge, Merta whereby, an application under Section 372 of Indian Succession Act has been allowed in favour of the resopndents. The case of the learned counsel for the appellant is that the trial court has wrongly assumed that there was a matrimonial relations between the deceased and Shivraj Singh. According to the learned counsel, the finding of the trial court is that the affidavit which has been sworn in in the name of Geeta Devi on 16.07.97 is a fabrication. Since, she died on 17.07.97, such fabrication was possible becaue she was a cancer patient and scribing signatures under the circumstances was beyond her control.

Learned trial court has not believed the affidavit but on the basis of the evidence which was on record in the shape of service record of the deceased, Geeta Devi and other evidence, came to the conclusion that Shivraj Singh was the husband and Narendra Singh was son of the deceased. As regards the fact of marriage, it has been found established on the basis of service record of Smt. Geeta Devi.

I have perused the service record and the maternity application. In both the documents, Shivraj Singh has been shown to be her husband. There is no reason as to why these documents should not have been relied upon by the trial court. The trial court has found on the basis of such evidence that Shivraj Singh was the husband of Geeta Devi. In that view of the matter, the findings of the trial court are liable to be sustained. The findings of the trial court deserve to be confirmed and are consequently confirmed. Whatever has been determined by the trial court to be the entitlement of each party, cannot be therefore, gone into. The appeal is therefore, merit-less and is hereby dismissed.

(BHAGWATI PRASAD), J.

bjsh